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EXAMINER
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CORRIELUS, JEAN M

ART UNIT	PAPER NUMBER
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2162

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/925,135	<b>Applicant(s)</b> YOUNG, B. ARLEN	
	<b>Examiner</b> Jean M. Corrielus	<b>Art Unit</b> 2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is in response to the amendment filed on August 4, 2005, in which claims 1-21 are presented for further examination.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 4, 2005 has been entered.

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
4. Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically, as directed to an abstract idea.

Claims 1-21 in view of **MPEP section 2106 IV.B.2. (b)** define non-statutory processes because they merely manipulate an abstract idea without a claimed limitation to a practical application. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Data structure not claimed as embodied in computer-readable media is descriptive material per SE and is not statutory because

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they are neither physical nor statutory processes. Structural and functional interrelationship with a general-purpose computer for permitting claimed functions to be realized are not provided in the claims. In contrast, a claimed system should define structural and functional interrelationships between data structures or functional parts and a computer system which permit the data functions to be realized, and is statutory. Thus, the claimed are rejected as being non-statutory. Additionally, the invention, as claimed, is directed to the manipulation of an abstract idea with no practical application in the technology arts.

The Supreme Court has repeatedly held that abstractions are not patentable. "An idea of itself is not patentable". Rubber-Tip Pencil Co. V. Howard, 20 wall. 498, 07. Phenomena of nature, though just discovered, mental processes, abstract intellectual concepts are not patentable, as they are the basis tolls of scientific and technological work Gottschalk V. Benson, 175 USPQ 673, 675 (S Ct 1972). It is a common place that laws of nature, physical phenomena, and abstract ideas are not patentable subject matter Parker V. Flook, 197 USPQ 193, 201 (S Ct 1978). A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See In re Wamerdam, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1754, 1759 (Fed. Cir. 1994). See also Schrader, 22 F.3d at 295, 30 USPQ2d at 1459.

Claims 1, 16 and 18 represent an abstract idea, which do not provide a practical application in the technological arts. There is no manipulation of data nor there any transformation of data from one state to another being performed in "A structure" in claims 1, 16 and 18. Actually, no post computer process activity is found in the technological arts. A structure is not a physical transformation. Thus, no physical transformation is performed, no practical application is found in the claims. Such scatter/gather list section as claimed can be done in a

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piece of paper, where one having ordinary skill in the art would produce a random number a data record and compare that random number with the previously random number in the sheet.

Claims 1, 16 and 18 are not **tangibly embodied** in a manner so as to **be executable** as the only hardware is in an intended use statement. Therefore, claims 1, 16 and 18 are directed to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." State Street, 149 F.3d at 1373, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (Brenner v. Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96); In re Ziegler, 992, F.2d 1197, 1200-03, 26 USPQ2d 1600, 1603-06 (Fed. Cir. 1993)). Applicant is advised to amend the claims by specifying the claim being directed to a practical application and producing a tangible result **being executed** by a general-purpose computer in order to correct the above indicated deficiencies.

The dependent claims 2-13 and 17 are rejected for fully incorporating the errors of their respective base claims by dependency. Thus, claims 2-13 and 17 are merely abstract idea and are being processed without any links to a practical result in the technology arts and without computer manipulation. They are not **tangibly embodied** in a manner so **as to be executable** as the only hardware is in an intended use statement.

Claims 14 and 15 represent an abstract idea, which do not provide a practical application in the technological arts. There is no manipulation of data nor there any transformation of data from one state to another in claims 14 and 15. Applicant should duly note a structure is not a process. Such structure cannot be implemented by a computer system. Applicant should duly note that claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for patenting. Claims 14 and 15, for example, are directed to a scatter/gather list section stored on a memory may satisfy the utility requirement of 35 U.S.C. 101 since the information stored may have some "real world" value. However, the mere fact that the claims may satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is achieved under the practical application requirement. The claimed invention as a whole must produce a "useful, concrete and tangible" result to have a practical application. Such scatter/gather list section as claimed can be done in a piece of paper (memory), where one having ordinary skill in the art would produce a random number a data record and compare that random number with the previously random number in the sheet. Also, the claims do not appear to correspond to a specific machine or manufacture disclosed within the specification and thus encompass any product of the class configured in any manner to perform the underlying process, and are thus rejected as being directed. Therefore, claims 14 and 15 are directed to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

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Claim 19 represents an abstract idea, which do not provide a practical application in the technological arts. Claim 19 provides a process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed.Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459. There is no manipulation of data nor there any transformation of data from one state to another being performed in "A method" in claim 19. Actually, no post computer process activity is found in the technological arts. Thus, no physical transformation is performed, no practical application is found in the claims. Such scatter/gather list section as claimed can be done in a piece of paper, where one having ordinary skill in the art would produce a random number a data record and compare that random number with the previously random number in the sheet. Claim 19 is not **tangibly embodied** in a manner so as to *be executable* as the only hardware is in an intended use statement. Therefore, claim 19 is directed to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing *a concrete, useful, and tangible result* to form the basis of statutory subject matter under 35 U.S.C. 101.

The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (*Brenner v. Manson*, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96); *In re Ziegler*, 992, F.2d 1197, 1200-03, 26 USPQ2d 1600, 1603-06 (Fed. Cir. 1993)). Applicant is advised to amend the claims by specifying the claim being directed to a practical application and producing a tangible

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result **being executed** by a general-purpose computer in order to correct the above indicated deficiencies.

The dependent claims 20-21 are rejected for fully incorporating the errors of their respective base claims by dependency. Thus, claims 20-21 are merely abstract idea and are being processed without any links to a practical result in the technology arts and without computer manipulation. They are not **tangibly embodied** in a manner so **as to be executable** as the only hardware is in an intended use statement.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-13, 16-17 and 19-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being unpatentable Applicant's admitted prior art Specification pages 1-3 and (fig. 1A-1C).

As to claim 1:

#### **Analysis:**

Step a) recites "a scatter/gather list comprising a plurality of scatter/gather list sections stored in a memory, wherein at least one scatter/gather list sections". The list section qualifies as descriptive material since it is directed to the information content of what is scattered/gathered, not any specific structure or step. Regarding how this descriptive material is being used, this step



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is one of “scattering/gathering”. The scattering/gathering does not process the information contained in the list since the scattering/gathering is not recited as being responsive to or depending on the format or content of the information being scattering/gathering. Therefore, the information content being scattering/gathering is not related to how that step is performed and appears to be nonfunctional descriptive material.

Step b) “a plurality of data elements, wherein each data element comprises: an end-of-list flag; and an end-of-section flag”. This further defines how the list section is being used. As a result the list section is no longer solely nonfunctional descriptive material. Regarding how this descriptive material is being used, the plurality of data element, while driven by the list section, is not explicitly recited as being altered or impacted by the particular type of information requested by the list section. Therefore, the particular data elements appears to be nonfunctional descriptive material.

Applicant’s admitted prior art (Specification pages 1-3 and fig. 1A-1C) discloses the claimed “a plurality of scatter/gather list sections stored in a memory” a scatter/gather list stored in memory 115 (fig. 1A-1B) includes a plurality of sections 130A and 130B, “wherein at least one scatter/gather list section” the scatter/gather list sections 130A and 130B, comprising: “a plurality of data elements” the data elements 130\_1A to 130\_nA in list 130A and the data elements 130\_1B to 130\_nB in list 130B (fig. 1A-1B), wherein each data element 130\_1A to 130\_nA in list 130A, and wherein the plurality of scatter/gather list 130A to 130B has a structure as illustrated by list section 130C in fig. 1C, and wherein list section 130C includes a plurality of elements 140\_1 to 140\_(n+1), each of elements 140\_1 to 140\_(n+1) includes an end-of-section flag a1 and an end-of-list flag y1 (see fig. 1C). Applicant’s admitted prior art

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does not include the phrase “end-of-section flag.” On the other hand, Applicant’s admitted prior art (fig.1B) discloses a host adapter system with a scatter/gather section list stored in a memory, which used an end list flag. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The end-of list flag and end-of-section flag would be performed the same regardless of the list and section. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, (See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir 1994).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a flag at the end of the list and section. Because such flag is a nonfunctional descriptive material and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As to claim 2, Applicant’s admitted prior art discloses the claimed “said end-of-list flag has a same value in said each data element” wherein end-of-list flag y1 has the same format or value in the data element 140\_1 to 140\_(n+1) (see fig.1C).

As to claim 3, Applicant’s admitted prior art discloses the claimed “wherein said end-of-section flag has a same value in said each data element” wherein the end-of-section flag a1 has the same format or value in the data element 140\_1 to 140\_(n+1) (see fig.1C).

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As to claim 4, Applicant's admitted prior art discloses the claimed "wherein said end-of-section flag has a first value in a last data element in said plurality of data elements, and a second value in all other data elements in said plurality of data elements" wherein the end-of section flag a1 in link elements 140\_n is set by driver 220 to a first stage, if only if the data element 140\_n is the last data element in the scatter/gather list 130C (see fig.1C).

As to claim 5, Applicant's admitted prior art discloses the claimed "wherein said end-of-list flag has a same value in said each data element." wherein the end-of section flag y1 in link elements 140\_n is set by driver 220 to a first stage, if only if the data element 140\_n is the last data element in the scatter/gather list 130C (see fig.1C).

As to claim 7, Applicant's admitted prior art discloses the claimed "said end-of-list flag has a size of one bit" as a single enlist flag bit (page 2, line 32).

As to claim 8, Applicant's admitted prior art discloses the claimed "wherein said end-of-section flag has a size of one bit" the end list flag bit has a value of one (page 3, line 1).

As to claim 9, Applicant's admitted prior art discloses the claimed "wherein said each data element further comprises an address field" wherein the data element 130\_1A specifies segments 116 has an address x1 (specification page 2, line 11).

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As to claim 10, Applicant's admitted prior art discloses the claimed "wherein said end-of-list flag, and said end-of-section flag are included within said address field" end-of-list flag (a1), and said end-of-section flag (y1)(fig.1C).

As to claim 11, Applicant's admitted prior art discloses the claimed "wherein said each data element further comprises a length field" wherein the data element 130\_1A specifies segments 116 has an length y1 (specification page 2, line 11).

As to claim 12, Applicant's admitted prior art discloses the claimed "wherein said each data element further comprises: a length field" wherein the data element 130\_1A specifies segments 116 has an length y1 (specification page 2, line 11).

As to claim 13, Applicant's admitted prior art discloses the claimed "an end-of-list flag" (col.); and "an end-of-section flag" wherein list section 130C includes a plurality of elements 140\_1 to 140\_(n+1), each of elements 140\_1 to 140\_(n+1) includes an end-of-section flag a1 and an end-of-list flag y1 (see fig.1C).

As to claims 14-16:

**Analysis:**

Step a) recites "a scatter/gather list comprising a plurality of scatter/gather list sections stored in a memory, wherein at least one scatter/gather list sections". The list section qualifies as

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descriptive material since it is directed to the information content of what is scattered/gathered, not any specific structure or step. Regarding how this descriptive material is being used, this step is one of “scattering/gathering”. The scattering/gathering does not process the information contained in the list since the scattering/gathering is not recited as being responsive to or depending on the format or content of the information being scattering/gathering. Therefore, the information content being scattering/gathering is not related to how that step is performed and appears to be nonfunctional descriptive material.

Step b) “a plurality of data elements, wherein each data element comprises: an end-of-list flag; and an end-of-section flag”. This further defines how the list section is being used. As a result the list section is no longer solely nonfunctional descriptive material. Regarding how this descriptive material is being used, the plurality of data element, while driven by the list section, is not explicitly recited as being altered or impacted by the particular type of information requested by the list section. Therefore, the particular data element appears to be nonfunctional descriptive material.

As to claim 16, Applicant’s admitted prior art (Specification pages 1-3 and fig. 1A-1C) discloses the claimed “ a plurality of scatter/gather list sections stored in a memory” a scatter/gather list stored in memory 115 (fig. 1A-1B) includes a plurality of sections 130A and 130B, “wherein at least one scatter/gather list section“ the scatter/gather list sections 130A and 130B, comprising: “a plurality of data elements” the data elements 130\_1A to 130\_nA in list 130A and the data elements 130\_1B to 130\_nB in list 130B (fig. 1A-1B), wherein each data element 130\_1A to 130\_nA in list 130A, and wherein the plurality of scatter/gather list 130A to 130B has a structure as illustrated by list section 130C in fig. 1C, and wherein list section 130C

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includes a plurality of elements 140\_1 to 140\_(n+1), each of elements 140\_1 to 140\_(n+1) includes an end-of-section flag a1 and an end-of-list flag y1 (see fig.1C). Applicant's admitted prior art does not include the phrase "end-of-section flag." On the other hand, Applicant's admitted prior art (fig.1B) discloses a host adapter system with a scatter/gather section list stored in a memory, which used an end list flag. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The end-of list flag and end-of-section flag would be performed the same regardless of the list and section. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, (See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir 1994). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a flag at the end of the list and section. Because such flag is a nonfunctional descriptive material and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As to claim 17, Applicant's admitted prior art (Specification pages 1-3 and fig. 1A-1C) discloses a link element (n+1), wherein each element (wherein each data element 130\_1A to 130\_nA in list 130A) comprises address (x1); wherein list section 130C includes a plurality of elements 140\_1 to 140\_(n+1), each of elements 140\_1 to 140\_(n+1) includes an end-of-section flag a1 and an end-of-list flag y1 (see fig.1C).

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As to claim 19:

**Analysis**

Step a) recites “a scatter/gather list comprising a plurality of scatter/gather list sections stored in a memory, wherein at least one scatter/gather list sections”. The list section qualifies as descriptive material since it is directed to the information content of what is scattered/gathered, not any specific structure or step. Regarding how this descriptive material is being used, this step is one of “scattering/gathering”. The scattering/gathering does not process the information contained in the list since the scattering/gathering is not recited as being responsive to or depending on the format or content of the information being scattering/gathering. Therefore, the information content being scattering/gathering is not related to how that step is performed and appears to be nonfunctional descriptive material.

Step b) “a plurality of data elements, wherein each data element comprises: an end-of-list flag; and an end-of-section flag”. This further defines how the list section is being used. As a result the list section is no longer solely nonfunctional descriptive material. Regarding how this descriptive material is being used, the plurality of data element, while driven by the list section, is not explicitly recited as being altered or impacted by the particular type of information requested by the list section. Therefore, the particular data element appears to be nonfunctional descriptive material.

Step c) “setting an end-of-list flag in a last element of a last section in said plurality of sections and setting an end-of-section flag in at least one of said plurality of sections other than said last section”. The end-of-list flag and end-of-section flag is being processed and could not be replaced by the any other flag since the setting step is dependent on the information content of

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the end-of-list flag and end-of-section flag. With respect to the presence of descriptive material, the setting step is used to determine when the list is ended. However, setting a flag at the end of each list to determine when the list is ended is nonfunctional descriptive material. There is no teachings or elements in the claim why a setting flag is needed at the end of each list and section.

Applicant's admitted prior art (Specification pages 1-3 and fig. 1A-1C) discloses the claimed "a plurality of scatter/gather list sections stored in a memory" a scatter/gather list stored in memory 115 (fig. 1A-1B) includes a plurality of sections 130A and 130B, "wherein each section includes a plurality of elements" the scatter/gather list sections 130A and 130B, comprises the data elements 130\_1A to 130\_nA in list 130A and the data elements 130\_1B to 130\_nB in list 130B (fig. 1A-1B); wherein each element (wherein each data element 130\_1A to 130\_nA in list 130A) comprises address (x1); wherein list section 130C includes a plurality of elements 140\_1 to 140\_(n+1), each of elements 140\_1 to 140\_(n+1) includes an end-of-section flag a1 and an end-of-list flag y1 (see fig. 1C); setting an end-of-list flag in a last data element of a last section in said plurality of sections"; and "setting an end-of-section flag in at least one of said plurality of sections other than said last section" wherein the end-of section flag a1 in link elements 140\_n is set by driver 220 to a first stage, if only if the data element 140\_n is the last data element in the scatter/gather list 130C (see fig. 1C). Applicant's admitted prior art does not include the phrase "end-of-section flag." On the other hand, Applicant's admitted prior art (fig. 1B) discloses a host adapter system with a scatter/gather section list stored in a memory, which used an end list flag. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The end-of list flag and end-of-section flag would be performed the same regardless of the list and section. Thus, this



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descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, (See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir 1994). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a flag at the end of the list and section. Because such flag is a nonfunctional descriptive material and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As to claim 20, Applicant's admitted prior art discloses the claimed " wherein said setting an end-of-section flag is performed on a last data element in said at least one of said plurality of sections other than said last section" wherein the end-of section flag a1 in link elements 140\_n is set by driver 220 to a first stage, if only if the data element 140\_n is the last data element in the scatter/gather list 130C (see fig.1C).

As to claim 21, Applicant's admitted prior art discloses the claimed "wherein said setting an end-of-section flag is performed on a link element in said at least one of said plurality of sections other than said last section" wherein the end-of section flag a1 in link elements 140\_n is set by driver 220 to a first stage, if only if the data element 140\_n is the last data element in the scatter/gather list 130C (see fig.1C).

*Allowable Subject Matter*

7. **Claims 6, 14, 15 and 18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.**


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### Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M. Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jean M Corrielus  
Primary Examiner  
Art Unit 2162

August 19, 2005